

SUPREME COURT U.S.

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 442

UNITED STATES OF AMERICA, APPELLANT

JAMES J. CARROLL

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF MISSOURI

Filed November 7, 1952

Jurisdiction Postponed December 15, 1952

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 442

UNITED STATES OF AMERICA, APPELLANT,

VS.

JAMES J. CARROLL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF MISSOURI.

INDEX.

Original Print

Record from the U.S.D.C. for the Western District of Missouri

Caption	(Omitted in printing)	2	1
Indictment in Cause No. 18188		3	1
Indictment in Cause No. 18189		55	47
Motion to dismiss in Cause No. 18188		62	53
Motion to dismiss in Cause No. 18189		71	58
Supplemental motion to dismiss in Cause No. 18188		78	63
Supplemental motion to dismiss in Cause No. 18189		79	64
Order sustaining motion to dismiss in Cause No. 18188 ..		80	65
Order re motion to dismiss in Cause No. 18189		81	65
Notice of appeal in Cause No. 18188		82	65
Court's remarks in ruling on motion to dismiss in Cause No. 18188		88	66
Service of appeal papers	(Omitted in printing)	97	74
Designation of record		98	74
Notice of appeal in Cause No. 18188		98a	75
Docket entries in Cause No. 18188		98b	75
Counter designation of record	(Omitted in printing)	99	77
Clerk's certificate	(Omitted in printing)	100	77
Statement of points to be relied upon and designation of record		101	77
Order postponing jurisdiction		104	78

IN UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

No. 18188

UNITED STATES OF AMERICA, *Plaintiff,*

VS.

JAMES J. CARROLL, *Defendant.*

Indictment—Filed December 14, 1951

The Grand Jury charges:

COUNT 1

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Carl Abbott, 416 West Morgan, Sedalia, Missouri, of the sum of \$7,536.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 2

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Cobe Ablan, also known as Cobe R. Ablan, 1824 Russell Avenue, St. Louis, Missouri, of the sum of \$800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue.

venue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment and the and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 3

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. L. Archer, 920 South Main, Hope, Arkansas, of the sum of \$1,392.35, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

5

COUNT 4

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Berridge & Rumer, also known as Barrage & Rumer, a co-partnership consisting of Harry R. Berridge and Frank J. Rumer, located at 104 North Second, Vincennes, Indiana, of the sum of \$6,471.25, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make

said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 5

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Walter Bohnisch, also known as Walter Bonisch, 216 North Oxford Street, Lindsay, California, of the sum of \$2,733.80, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper office of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

6

COUNT 6

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Patrick Clifford, also known as Pat Clifford, 4612 Margaretta, St. Louis, Missouri, of the sum of \$800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 7

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. J. Collins, 4712 Westminster, St. Louis, Missouri, of the sum of \$700.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

7

COUNT 8

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to James F. Dill, 1124 Crescent Drive, Sedalia, Missouri, of the sum of \$2,380.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 9

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. A. Duff, Hotel Floridan, Tallahassee, Florida, of the sum of \$1,223.50, and that under the provisions of Section 147 of

the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

8

COUNT 10

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Charles J. Dyer, 2011 East Fair Avenue, St. Louis, Missouri, of the sum of \$800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 11

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. L. Ferguson, in care of Matt's News Stand, located at 331 Fourth Avenue North, Nashville, Tennessee, of the sum of \$15,807.75, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the

Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

◊ In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

9

COUNT 12

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. R. Frieje, also doing business as Paramount Club, whose address is Post Office Box 127, Terre Haute, Indiana, of the sum of \$83,563.45, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 13

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. J. Glazer, 612 S. Alvord, Evansville, Indiana, of the sum of \$1,600.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts,

the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

10

COUNT 14

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. E. Green, 159 Lindero Ave., Lindsay, California, of the sum of \$1,837.15, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 15

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Wilson C. Haight, Sr., also known as Bill Haight, whose address is Route 2, Ann Arbor, Michigan, of the sum of \$1,580.30, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a):

11

COUNT 16

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Leo J. Hennessy, also known as L. Hennessey, 5821 Mimika Street, St. Louis, Missouri, of the sum of \$2,600.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 17

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. J. Herrmann, also known as Richard J. Herrmann, 3241 Trinity Road, Louisville, Kentucky, of the sum of \$18,918.10, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

12

COUNT 18

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made pay-

ment to Roy C. Hultburg, also known as Roy Hultburg, Roy Jultburg, Ray Hultburg, and Ray Hultberg, 282 Fifteenth Street, N. W., Cedar Rapids, Iowa, of the sum of \$1,877.80, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 19

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Philip L. Joseph, also known as Philip Joseph, Phil Joseph, and Phillip Joseph, 2706 Wooldridge Drive, Austin, Texas, of the sum of \$25,909.75, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. Raymond Levi, also known as J. R. Levi, whose address is Post Office Box 244, Berryville, Virginia, of the sum of \$59,780.05, and that under the provisions of Section 147 of the Internal

Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri; setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 21

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Ralph Lowe, whose address is Post Office Box 832, Midland, Texas, of the sum of \$40,301.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 22

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to A. V. Mabry, 3612 North Spring, St. Louis, Missouri, of the sum of \$2,600.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the

aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 23

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Clarence Marks, also known as C. Marks, doing business as Monroe Commission Co., whose address is Post Office Box 1303, Monroe, Louisiana, of the sum of \$25,693.15, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

15

COUNT 24

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Raymond Massud, also known as Ray Massud, 4160 Tyrolean, St. Louis, Missouri, of the sum of \$4,000.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commis-

sioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 25

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to C. J. McElroy, 727 Hoskins Street, Lufkin, Texas, of the sum of \$1,345.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

16

COUNT 26

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Raymond E. Muckerman, also known as Ray Muckerman, Route 2, Chesterfield, Missouri, of the sum of \$800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 27

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Chas. P. Orchard, also known as C. P. Orchard, Park Plaza Hotel, St. Louis, Missouri, of the sum of \$4,000.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

17

COUNT 28

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Oscar Pfeiffer, doing business as R. L. Kilpatrick & Co., whose address is 1430 Claytonia Terrace, Richmond Heights, Missouri, of the sum of \$1,800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 29

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Joseph H. Popp, whose address is 3626 So. Broadway, St.

Louis, Missouri, of the sum of \$800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

18

COUNT 30

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Richard J. Rae, also known as Dick Rae and Dick Roe, whose address is 417 Johnstone, Bartlesville, Oklahoma, of the sum of \$651.85, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code, 26 U.S.C., Section 145(a).

COUNT 31

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Charles J. Rich, also known as Chas. Rich and C. J. Rich, whose address is 8201 Balsam, University City, Missouri, of the sum of \$139,902.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required

on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

19

COUNT 32

That, during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. A. Rose, also known as Joseph Rose, whose address is Post Office Box 274, Edina, Missouri, of the sum of \$4,000.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 33

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Maurice A. Ryan, also known as M. A. Ryan and Maury Ryan, whose address is 35 Klainecrest, Fort Thomas, Kentucky, of the sum of \$9,830.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the re-

recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

20

COUNT 34

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to H. W. Sapp, 415 Washington Street, Henderson, Kentucky, of the sum of \$989.35, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 35

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Harry Schendel, 2710 South Grand Avenue, St. Louis, Missouri, of the sum of \$800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Harry Scott, also known as Henry Scott, whose address is Maryville, Missouri, of the sum of \$642.75, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 37

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Judge Anton Sestric, whose address is 3137 Allen Avenue, St. Louis, Missouri, of the sum of \$4,000.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to W. E. Simmons, whose address is Big Springs, Texas, of the sum of \$693.85, and that under the provisions of Section 147

of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 39

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. W. Stoneking, also known as R. W. Stonking, whose address is Bushnell, Illinois, of the sum of \$24,399.35, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

23

COUNT 40

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. G. Wales, 510 - 8th Street, Wichita Falls, Texas, of the sum of \$973.15, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of

the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 41

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to John E. Finnell, also known as Dred Finnell, whose address is 1521 East 48th Street Terrace, Kansas City, Missouri, and who was a partner in the partnership known as Walnut Recreation, of the sum of \$9,700.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

24

COUNT 42

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Ray Whitledge, whose address is Frankfort, Kentucky, of the sum of \$6,892.25, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 43

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Bettie Woodall, also known as Betty Woodall, whose address is 1206 South College Street, Stuttgart, Arkansas, of the sum of \$1,416.10, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

25.

COUNT 44

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Herbert M. Woolf, whose address is 5049 Wornall Road, Kansas City, Missouri, of the sum of \$39,793.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 45.

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made pay-

ment to Sam Ziegman, in care of Baseball Headquarters, Omaha, Nebraska, of the sum of \$43,225.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

26

COUNT 46

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. L. Archer, 920 So. Main, Hope, Arkansas, of the sum of \$2,575.05, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 47

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to F. R. Arthurhultz, also known as Arthur Holtz, and A. Holtz, 703 Main Street, Buchanan, Michigan, of the sum of \$886.40, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury De-

partment Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

27

COUNT 48

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Berridge & Rumer, a co-partnership doing business as No. 8 Recreation Club consisting of Harry R. Berridge and Frank J. Rumer, located at 101 North Second, Vincennes, Indiana, of the sum of \$7,416.60, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 49

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Walter Bohnisch, also known as Walter Bonisch, 216 No. Oxford Street, Lindsay, California, of the sum of \$1,341.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment;

that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

28

COUNT 50

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Ben Saathoff, New Castle, Indiana, and who is a partner in the partnership known as Castle Cigar Store, of the sum of \$3,332.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 51

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. J. Collins, 4712, Westminster, St. Louis, Missouri, of the sum of \$900.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

29

COUNT 52

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Downey-Walsh, also known as D. & W. Cigar Store, a partnership consisting of James Downey and Thomas Walsh, and which is located at 617 Columbus Street, Ottawa, Illinois, of the sum of \$3,852.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 53

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. A. Duff, Hotel Floridan, Tallahassee, Florida, of the sum of \$1,355.85, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

30

COUNT 54

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. L. Ferguson, in care of Matts News Stand, located at

331 Fourth Avenue North, Nashville, Tennessee, of the sum of \$8,217.75, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 55

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. R. Frieje, also known as E. R. Freije, doing business as Paramount Club, whose address is Post Office Box 127, Terre Haute, Indiana, of the sum of \$55,598.25, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

31

COUNT 56

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to John Froschhouser, also known as John Froschhesner, John Froschueser, John Froschheuser, John Froschheuser, and John Froschheuser, 511 So. Burlington, Hastings, Nebraska, of the sum of \$1,415.75, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Sec-

tion 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 57

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Thomas Georgeff, also known as Tom Georgeff, 205 So. Ludlaw, Dayton, Ohio, of the sum of \$1,195.25, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

32

COUNT 58

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. E. Green, 159 Lindero Avenue, Lindsay, California, of the sum of \$632.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of

the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 59

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Wilson C. Haight, Sr., also known as Bill Haight, Route 2, Ann Arbor, Michigan, of the sum of \$2,413.20, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

33

COUNT 60

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to William Hecht, also known as Wm. Hecht, whose address is Calhoun Beach Hotel, Minneapolis, Minnesota, of the sum of \$11,248.60, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C.,
Section 145(a).

COUNT 61

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. J. Herrmann, 3241 Trinity Road, Louisville, Kentucky, of the sum of \$3,724.60, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C.,
Section 145(a).

34

COUNT 62

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Roy C. Hultburg, also known as Roy Hultburg, 282 Fifteenth Street N.W., Cedar Rapids, Iowa, of the sum of \$823.55, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C.,
Section 145(a).

COUNT 63

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made pay-

ment to Philip L. Joseph, also known as Phil Joseph, 2706 Woolbridge Drive, Austin, Texas; of the sum of \$29,121.75, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

35

COUNT 64

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. Raymond Levi, also known as J. R. Levi, Post Office Box 244, Berryville, Virginia, of the sum of \$15,045.55, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 65

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Ralph Lowe, whose address is Midland, Texas, of the sum of \$147,605.00; and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the

Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

36

COUNT 66

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Clarence Marks, also known as C. Marks, doing business as Monroe Commission Co., whose address is Post Office Box 1303, Monroe, Louisiana, of the sum of \$14,524.55, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 67

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to H. M. Pender, 1625 Commerce, Little Rock, Arkansas, of the sum of \$12,400.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and know-

ingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

37

COUNT 68

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Oscar Pfeiffer, doing business as R. L. Kilpatrick, 1430 Claytonia Terrace, Richmond Heights, Missouri, of the sum of \$16,379.25, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 69

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Lauerdo Ladgie Proctor, also known as Ray Proctor, 1435 Seventh Avenue, Sacramento, California, of the sum of \$700.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Charles J. Rich, also known as Chas. Rich and C. J. Rich, 8201 Balsome Avenue, University City, Missouri, of the sum of \$166,115.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 71

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Maurice A. Ryan, also known as Maury A. Ryan, and M. A. Ryan, whose address is 35 Klainecrest, Fort Thomas, Kentucky, of the sum of \$36,330.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Harry Scott, whose address is Maryville, Missouri, of the

sum of \$656.10, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 73

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Charles C. Spink, 2018 Washington Avenue, St. Louis, Missouri, of the sum of \$2,982.80, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

40

COUNT 74

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to R. W. Stoneking, doing business as Korn Club, whose address is Bushnell, Illinois, of the sum of \$31,936.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950 to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri,

setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 75

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to John E. Finnell, also known as Dred Finnell, whose address is 1521 East 48th Terrace, Kansas City Missouri, and who was a partner in the partnership known as Walnut Recreation, of the sum of \$69,142.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

41

COUNT 76

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. J. White, 116 Market Street, Hattiesburg, Mississippi, of the sum of \$949.80, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to

any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 77

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Roy Whittlege, whose address is Frankfort, Kentucky, of the sum of \$5,977.20, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

42

COUNT 78

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Bettie Woodall, also known as Betty Woodall, whose address is 1206 South College Street, Stuttgart, Arkansas, of the sum of \$1,966.40, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

COUNT 79

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Herbert M. Woolf, 5049 Wornall Road, Kansas City, Missouri, of the sum of \$23,907.95, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C. Section 145(a).

43

COUNT 80

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Edward K. Yamato, also known as Eddie Yamato, and E. Yamato, 2918 Lafayette Street, Denver, Colorado, of the sum of \$3,215.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 81

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Sam Ziegman, in care of Baseball Headquarters, Omaha,

Nebraska, of the sum of \$72,650.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

44

COUNT 82

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Frank Ackerman, in care of the Smoke House, and whose address is Post Office Box 1019, Galesburg, Illinois, of the sum of \$12,424.50, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 83

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Berridge & Rumer, a co-partnership doing business as No. 8 Recreation Club, consisting of Harry R. Berridge and Frank J. Rumer, located at 101 North Second, Vincennes, Indiana, of the sum of \$5,782.60, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States

Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

45

COUNT 84

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Ben Saathoff, New Castle, Indiana, and who is a partner in the partnership known as Castle Cigar Store, of the sum of \$3,140.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 85

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Downey-Walsh, also known as D. & W. Cigar Store, a partnership consisting of James Downey and Thomas Walsh, and which is located at 617 Columbus Street, Ottawa, Illinois, of the sum of \$13,525.85, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of

the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

46

COUNT 86

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to J. L. Ferguson, in care of Matts News Stand, located at 331 Fourth Avenue North, Nashville, Tennessee, of the sum of \$17,955.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 87

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Thomas Georgeff, also known as Tom Georgeff, 205 South Ludlaw, Dayton, Ohio, of the sum of \$22,783.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended; the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

47

COUNT 88

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to E. W. Henderson, whose address is Post Office Box 361, Charlotte, North Carolina, of the sum of \$1,790.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 89

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Philip L. Joseph, also known as Phil Joseph, 2706 Wooldridge Drive, Austin, Texas, of the sum of \$7,563.40, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

48

COUNT 90

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made pay-

ment to J. Raymond Levi, also known as J. R. Levi, whose address is Post Office Box 244, Berryville, Virginia, of the sum of \$9,602.15, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 91

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Dr. Richard A. Lewis, also known as Dr. R. A. Lewis, whose address is East Rainelle, West Virginia, of the sum of \$13,920.45, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

49

COUNT 92

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Ralph Lowe, whose address is Post Office Box 832, Midland, Texas, of the sum of \$9,450.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on

United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 93

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Clarence Marks, also known as C. Marks, doing business as Monroe Commission Co., whose address is Post Office Box 1303, Monroe, Louisiana, of the sum of \$28,709.70, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 94

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Oscar Pfeiffer, doing business as R. L. Kilpatrick & Co., whose address is 1430 Claytonia Terrace, Richmond Heights, Missouri, of the sum of \$6,320.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the

recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 95

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Lauerdo Ladgie Proctor, also known as Ray Proctor, 1435 Seventh Avenue, Sacramento, California, of the sum of \$1,800.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 96

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Charles J Rich, also known as Chas. Rich and C. J. Rich, 8201 Balsom Avenue, University City, Missouri, of the sum of \$217,375.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 97

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Maurice A. Ryan, also known as Maury A. Ryan and
52 M. A. Ryan, whose address is 35 Klainecrest, Fort Thomas, Kentucky, of the sum of \$4,270.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 98

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to John E. Finnell, also known as Dred Finnell, whose address is 1521 East 48th Street Terrace, Kansas City, Missouri, and who was a partner in the partnership known as Walnut Recreation, of the sum of \$11,350.00, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code;
53 26 U.S.C., Section 145(a).

COUNT 99

That during the calendar year 1950, JAMES J. CARROLL, who was resident of the City of St. Louis, State of Missouri, made payment to Ray Whitledge, whose address is Frankfort, Kentucky, of the sum of \$1,958.30, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 100

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Herbert M. Woolf, whose address is 5049 Wornall Road, Kansas City, Missouri, of the sum of \$12,060.65, and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said
54 Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 101

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made payment to Sam Ziegman, in care of Baseball Headquarters, Omaha, Nebraska, of the sum of \$44,785.00, and that under the provisions of Section 147 of the Internal Revenue Code and

Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1099, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the amount of the aforesaid payment and the name and address of the recipient of the aforesaid payment; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

A True Bill.

EDYTHER L. SHELBY
Foreman

SAM M. WEAR
Sam M. Wear
United States Attorney

HARRY F. MURPHY
Harry F. Murphy
Assistant United States Attorney

FREDERICK M. SELTZER
Frederick M. Seltzer
*Special Assistant to the
United States Attorney*

IN UNITED STATES DISTRICT COURT

No. 18189

UNITED STATES OF AMERICA, *Plaintiff*,

VS.

JAMES J. CARROLL, *Defendant*

Indictment—Filed Dec. 14, 1951

The Grand Jury charges:

COUNT 1

That during the calendar year 1948, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made the following payments to the following persons:

Payee	Address	Total Payment
Carl Abbott	416 West Morgan Sedalia, Missouri	\$7,536.00
Cobe Ablan (also known as Cobe R. Ablan)	1824 Russell Avenue St. Louis, Missouri	800.00
E. L. Archer	920 So. Main Hope, Arkansas	1,392.35
Berridge & Rumer (also known as Barrage & Rumer, a co-partnership con- sisting of Harry R. Berridge and Frank J. Rumer)	101 North Second Vincennes, Indiana	6,471.25
Walter Bohnisch (also known as Walter Bonisch)	216 No. Oxford Street Lindsay, California	2,733.80
Patrick Clifford (also known as Pat Clifford)	4612 Margaretta St. Louis, Missouri	800.00
R. J. Collins	4712 Westminster St. Louis, Missouri	700.00
James E. Dill	1124 Crescent Drive Sedalia, Missouri	2,880.00
R. A. Duff	Hotel Floridan Tallahassee, Florida	1,223.50
Charles J. Dyer	2011 East Fair Avenue St. Louis, Missouri	800.00
56 J. L. Ferguson	c/o Matts News Stand 331 Fourth Avenue North Nashville, Tennessee	15,897.75
E. R. Frieje (also doing business as Para- mount Club)	Post Office Box 127 Terre Haute, Indiana	83,563.45
J. J. Glazer	612 S. Alvord Evansville, Indiana	1,600.00
E. E. Green	159 Lindero Avenue Lindsay, California	1,837.15

Payee	Address	Total Payment
Wilson C. Haight, Sr. (also known as Bill Haight)	Route 2 Ann Arbor, Michigan	1,580.30
Leo J. Hennessey (also known as L. Hennessey)	5821 Mimika Street St. Louis, Missouri	2,600.00
R. J. Herrmann (also known as Richard J. Herrmann)	3241 Trinity Road Louisville, Kentucky	18,918.10
Roy C. Hultburg (also known as Roy Hultburg, Roy Jultburg, Ray Hultburg, and Ray Hultberg)	282 Fifteenth Street, N. W. Cedar Rapids, Iowa	1,877.80
Philip L. Joseph (also known as Phillip Joseph, Phil Joseph, and Philip Joseph)	2706 Wooldridge Drive Austin, Texas	25,909.75
J. Raymond Levi (also known as J. R. Levi)	Post Office Box 244 Berryville, Virginia	59,780.05
Ralph Lowe	Post Office Box 832 Midland, Texas	40,301.50
A. V. Mabry	3612 No. Spring St. Louis, Missouri	2,600.00
Clarence Marks (also known as C. Marks, doing business as Monroe Commis- sion Co.)	Post Office Box 1303 Monroe, Louisiana	25,693.15
Raymond Masud (also known as Ray Massud)	4160 Tyrolean St. Louis, Missouri	4,000.00
C. J. McElroy	727 Hoskins Street Lufkin, Texas	1,345.50
Raymond E. Muckerman (also known as Ray Muckerman)	Route 2 Chesterfield, Missouri	800.00
Chas. P. Orchard (also known as C. P. Orchard)	Park Plaza Hotel St. Louis, Missouri	4,000.00
Oscar Pfeiffer (doing business as R. L. Kil- patrick & Co.)	1430 Claytonia Terrace Richmond Heights, Missouri	1,800.00
57 Joseph H. Popp	3626 So. Broadway St. Louis, Missouri	800.00
Richard J. Rae (also known as Dick Rae and Dick Roe)	417 Johnstone Bartlesville, Oklahoma	651.85
Charles J. Rich (also known as Chas. Rich and C. J. Rich)	2201 Balsom University City, Mo.	139,902.50
J. A. Rose (also known as Joseph Rose)	Post Office Box 274 Edina, Missouri	4,000.00
Maurice A. Ryan (also known as M. A. Ryan and Maury Ryan)	35 Klainecrest Fort Thomas, Kentucky	9,830.00
H. W. Sapp	415 Washington Street Henderson, Kentucky	989.35
Harry Schendel	2710 S. Grand Avenue St. Louis, Missouri	800.00
Harry Scott (also known as Henry Scott)	Maryville, Missouri	642.75
Judge Anton Sestrie	3137 Allen Avenue St. Louis, Missouri	4,000.00

Payee	Address	Total Payment
W. E. Simmons	Big Springs, Texas	693.85
R. W. Stonking (also known as R. W. Stonking)	Bushnell, Illinois	24,399.35
R. G. Wales	510 8th Street Wichita Falls, Texas	973.15
E. Finnell (also known as Dred Finnell) and who was a partner in the partnership known as Walnut Recreation)	1521 East 48th Street Terrace Kansas City, Missouri	9,700.00
Ray Whittleage	Frankfort, Kentucky	6,892.25
Bettie Woodall (also known as Betty Woodall)	1206 So. College Street Stattgart, Arkansas	1,416.16
Herbert M. Woolf	5049 Wornall Road Kansas City, Missouri	39,793.00
Sam Ziegman	c/o Baseball Headquarters Omaha, Nebraska	43,225.00

and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1949, to make a return on United States Treasury Department Internal Revenue Service Form 1096, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the number of returns on Form 1099 attached thereto; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return, Form 1096, to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 2

That during the calendar year 1949, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made the following payments to the following persons:

Payee	Address	Total Payment
E. L. Archer	920 So. Main Hope, Arkansas	\$ 2,575.05
F. R. Arthurhultz (also known as Arthur Holtz, and A. Holtz)	703 Main Street Buchanan, Michigan	886.40.
Berridge & Rumer, a co-partnership doing business as No. 8 Recreation Club consisting of Harry R. Ber- ridge and Frank J. Rumer	101 North Second Vincennes, Indiana.	7,416.60
Walter Bohnisch (also known as Walter Bonisch)	216 No. Oxford Street Lindsay, California	1,341.50
Beh Snathoff, and who is a partner in the partnership known as Castle Cigar Store	New Castle, Indiana	3,332.00

Payee	Address	Total Payment
R. J. Collins	4712 Westminster St. Louis, Missouri	900.00
Downey-Walsh (also known as D. & W. Cigar Store, a partner- ship consisting of James Downey and Thomas Walsh)	617 Columbus Street Ottawa, Illinois	3,852.50
R. A. Duff	Hotel Floridan Tallahassee, Florida	1,355.85
J. L. Ferguson	c/o Matts News Stand 331 Fourth Avenue North Nashville, Tennessee	8,217.75
59 E. R. Frieje (also known as E. R. Freije, doing business as Paramount Club)	Post Office Box 127 Terre Haute, Indiana	55,598.25
John Froschheuser (also known as John Froschhesuer, John Froschueser, John Frosheuseur, John Fraushheuser, and John Froeschheuser)	511 So. Burlington Hastings, Nebraska	3,415.75
Thomas Georgeff (also known as Tom Georgeff)	205 So. Ludlaw Dayton, Ohio	1,195.25
E. E. Green	159 Lindero Avenue Lindsay, California	632.00
Wilson C. Haight, Sr. (also known as Bill Haight)	Route 2 Ann Arbor, Michigan	2,413.20
William Hecht (also known as Wm. Hecht)	Calhoun Beach Hotel Minneapolis, Minnesota	11,248.60
R. J. Herrmann	3241 Trinity Road Louisville, Kentucky	3,724.60
Roy C. Hultburg (also known as Roy Hultburg)	282 Fifteenth Street, N. W. Cedar Rapids, Iowa	823.55
Philip L. Joseph (also known as Phil Joseph)	2706 Wooldridge Drive Austin, Texas	29,121.75
J. Raymond Levi (also known as J. R. Levi)	Post Office Box 244 Berryville, Virginia	15,045.55
Ralph Lowe	Midland, Texas	147,605.00
Clarence Marks (also known as C. Marks, doing business as Monroe Commission Co.)	Post Office Box 1303 Monroe, Louisiana	14,524.55
H. M. Pender	1625 Commerce Little Rock, Arkansas	12,400.00
Oscar Pfeiffer (doing business as R. L. Kilpatrick)	1430 Claytonia Terrace Richmond Heights, Mo.	16,379.25
Laverdo Ladgie Proctor (also known as Ray Proctor)	1435 Seventh Avenue Sacramento, California	700.00
Charles J. Rich (also known as Chas. Rich and C. J. Rich)	8201 Balsom Avenue University City, Mo.	166,115.00
Maurice A. Ryan (also known as Maurie A. Ryan, and M. A. Ryan)	35 Klaincrest Fort Thomas, Kentucky	36,330.00
Harry Scott	Maryville, Missouri	656.10
Charles C. Spink	2018 Washington Avenue St. Louis, Missouri	2,982.80
R. W. Stoneking, doing business as Korn Club	Bushnell, Illinois	31,936.00

Payee	Address	Total Payment
60 John E. Finnell (also known as Dred Finnell, and who was a partner in the partnership known as Walnut Recreation)	1521 East 48th Terrace Kansas City, Missouri	69,142.50
E. J. White	116 Market Street Hattiesburg, Mississippi	949.80
Roy Whitledge	Frankfort, Kentucky	5,977.20
Bettie Woodall (also known as Betty Woodall)	1206 So. College Street Stuttgart, Arkansas	1,966.40
Herbert M. Woolf	5049 Wornall Road Kansas City, Missouri	23,907.95
Edward K. Yamato also known as Eddie Yamato, and E. Yamato)	2918 Lafayette Street Denver, Colorado	3,215.50
Sam Ziegman	c/o Baseball Headquarters Omaha, Nebraska	72,650.00

and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, as amended, the said James J. Carroll was required on or before February 15, 1950, to make a return on United States Treasury Department Internal Revenue Service Form 1096, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the number of returns on Form 1099 attached thereto; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return, Form 1096, to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C., Section 145(a).

COUNT 3

That during the calendar year 1950, JAMES J. CARROLL, who was a resident of the City of St. Louis, State of Missouri, made the following payments to the following persons:

Payee	Address	Total Payment
Frank Ackerman	c/o Smoke House Post Office Box 1019 Galesburg, Illinois	\$12,424.50
Berridge & Rumer, a co-partnership doing business as No. 8 Recreation Club consisting of Harry R. Berridge and Frank J. Rumer	101 North Second Vincennes, Indiana	5,782.60
61 Ben Saathoff, who is a partner in the partnership known as Castle Cigar Store	New Castle, Indiana	3,140.00
Downey-Walsh (also known as D. & W. Cigar Store, a partnership consisting of James Downey and Thomas Walsh)	617 Columbus Street Ottawa, Illinois	13,525.85

Payee	Address	Total Payment
J. L. Ferguson	c/o Matts News Stand 331 Fourth Avenue North Nashville, Tennessee	17,955.00
Thomas Georgeff (also known as Tom Georgeff)	205 So. Ludlaw Dayton, Ohio	22,783.00
E. W. Henderson	Post Office Box 361 Charlotte, North Carolina	1,790.00
Philip L. Joseph also known as Phil Joseph)	2706 Wooldridge Drive Austin, Texas	7,563.40
J. Raymond Levi (also known as J. R. Levi)	Post Office Box 244 Berryville, Virginia	9,602.15
Dr. Richard A. Lewis (also known as Dr. R. A. Lewis)	East Rainelle West Virginia	13,920.45
Ralph Lowe	Post Office Box 832 Midland, Texas	9,450.00
Clarence Marks (also known as C. Marks, doing business as Monroe Commission Co.)	Post Office Box 1303 Monroe, Louisiana	28,709.70
Oscar Pfeiffer, doing business as R. L. Kilpatrick & Co.	1430 Claytonia Terrace Richmond Heights, Mo.	6,320.00
Laverdo Ladgie Proctor (also known as Ray Proctor)	1435 Seventh Avenue Sacramento, California	1,800.00
Charles J. Rich (also known as Chas. Rich and C. J. Rich)	8201 Balsom Avenue University City, Mo.	217,375.00
Maurice A. Ryan (also known as Maury A. Ryan and M. A. Ryan)	35 Klaincrest Fort Thomas, Kentucky	4,270.00
John E. Fennell (also known as Dred Fennell, and who was a partner in the partnership known as Walnut Recreation)	1521 East 48th St. Terrace Kansas City, Missouri	11,350.00
Ray Whitlege	Frankfort, Kentucky	1,958.30
Herbert M. Woolf	5049 Wornall Road Kansas City, Missouri	12,060.65
Sam Ziegman	c/o Baseball Headquarters Omaha, Nebraska	44,785.00

and that under the provisions of Section 147 of the Internal Revenue Code and Treasury Regulations 111, Section 29.147-1, 62 as amended, the said James J. Carroll was required on or before February 15, 1951, to make a return on United States Treasury Department Internal Revenue Service Form 1096, to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri, setting forth the number of returns on Form 1099 attached thereto; that, well knowing all of the foregoing facts, the said James J. Carroll did willfully and knowingly fail to make said return, Form 1096, to said Commissioner of Internal Revenue or to any other proper officer of the United States at the said time and place.

In violation of Section 145(a), Internal Revenue Code; 26 U.S.C.,
Section 145(a).

A True Bill.

EDYTHE L. SHELBY

Foreman

SAM M. WEAR

Sam M. Wear

United States Attorney

HARRY F. MURPHY

Harry F. Murphy

Assistant United States Attorney

FREDERICK M. SELTZER

Frederick M. Seltzer

*Special Assistant to the
United States Attorney*

63

IN UNITED STATES DISTRICT COURT

[Title omitted]

No. 18188

Defendant's Motion to Dismiss—Filed Jan. 31, 1952

Comes now the defendant in the above-entitled cause and moves that each Count of the Indictment filed herein be dismissed upon the following grounds:

1. That Counts One through Forty-Five of the Indictment are barred by the Statute of Limitations.
2. That this Court is without jurisdiction over the subject matter alleged in the Indictment and over the person of this defendant.
3. That the Indictment is defective and this Court has no jurisdiction thereof for the reason that the Grand Jury was not given any charge or instructions by the Court relative to matters of law during their investigation.
4. That the acts alleged to have been committed by the defendant do not constitute an offense against the laws of the United States, for the reason that since 1937, contrary to previous practice, no reference has been made under the Regulations on the Income Tax Return known as Form 1040 to the information required on Internal Revenue Service Forms 1099 and 1096, thus indicating that such information is no longer required or requested by the Com-

64 missioner of Internal Revenue of the Secretary of the Treasury; and that any requirement previously existing has been abandoned by the Government.

5. That the Indictment is further defective for the reason that it is not stated therein that the information allegedly required to be supplied on Internal Revenue Service Form 1099 was or is in the possession, custody or control of this defendant.

6. That the silence of the Internal Revenue Agents with respect to the requirement of filing Internal Revenue Service Forms 1099 and 1096 after their examination of a taxpayer's books and records establishes reasonable cause for an alleged failure to file such forms.

7. That the Indictment does not state facts sufficient to constitute an offense against the United States.

8. That the alleged offenses charged in the Indictment are the same offenses with which the defendant is charged in a separate Indictment under Cause No. 18189 pending in this Court, and that if the defendant is prosecuted under each Indictment he could be twice convicted for the same alleged offense.

9. That the Indictment does not state facts sufficient to constitute an offense for the reason that it does not charge all of the essential elements of the particular offense.

10. That the Indictment is defective for the reason that it does not set out or allege that any demand was at any time made of the defendant for the furnishing of the information referred to, as required by Section 147 of the Internal Revenue Code.

11. That the Indictment is defective for the reason that the failure to file on Internal Revenue Service Form 1099 does not constitute an offense under section 145 of the Internal Revenue Code.

65 12. That each Count of the Indictment charges the defendant with the commission of the same offense in such manner that the defendant could be convicted 101 times for the same alleged offense under this Indictment.

13. That Counts One (1) through Forty-Five (45) of the Indictment, charging the defendant with the failure to make a return on or before February 15, 1949, charge the defendant with the same offense, in such manner that he could be convicted 45 times for the commission of the same alleged offense.

14. That Counts Forty-Six (46) through Eighty-One (81) of the Indictment, charging the defendant with the failure to make a return on or before February 15, 1950, charge the defendant with

the same offense, in such manner that he could be convicted 36 times for the commission of the same alleged offense.

15. That Counts Eighty-Two (82) through One Hundred and One (101) of the Indictment, charging the defendant with the failure to make a return on or before February 15, 1951, charge the defendant with the same offense, in such manner that he could be convicted 20 times for the commission of the same alleged offense.

16. That for a long period of time the plaintiff has received and accepted without objection the returns filed by this defendant, and has thus by its actions ratified, accepted and consented to the information so furnished by the defendant, and is therefore barred and estopped from the prosecution of the alleged offense.

17. That if the commission of the acts set out in the Indictment constitute an offense against the laws of the United States, yet by reason of the acts, customs, practices and procedure of the Bureau of Internal Revenue and the Department of Justice relative thereto, a taxpayer has as a matter of law reasonable cause to fail to furnish the information allegedly omitted by the defendant.

66 18. That the plaintiff, in seeking to prosecute this defendant upon the acts alleged in the Indictment, contrary to the practices and procedure of the Bureau of Internal Revenue and the Department of Justice, is acting in a discriminatory fashion and is depriving this defendant of the equal protection of the law and of due process of law, contrary to the provisions of the Constitution of the United States.

19. That the statute upon which the Indictment is based in this cause is so vague, indefinite and uncertain that the application of such statute to the acts alleged to have been committed herein will cause said statute to become an instrument of great hardship and confusion.

20. That the Indictment in this cause is defective for the reason that it was filed without affording to the defendant a hearing before the Internal Revenue Department, contrary to the practices, procedure and regulations of the said Department.

21. That the Indictment in this cause does not state facts with sufficient certainty to advise the defendant of the nature of the charges sought to be proved thereunder, nor to enable him to prepare his defense thereto, nor to plead the judgment of the Court herein in bar of a further prosecution for the same alleged acts.

22. That the acts set forth in the Indictment do not constitute an offense against the laws of the United States for the further reason that the Indictment does not state that the payments allegedly made by the defendant were payments of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, or income.

23. That by reason of the uncertainty and confusion among the general public as to the necessity of filing the returns under Section 147 of the Internal Revenue Code, and as well among the officials of the Government charged with the enforcement of the income tax statutes, as illustrated by the lack of prosecution thereon, contrary to the provisions of Sections 3745 and 4047(9) of Title 26 of the United States Code, it is apparent that as a matter of law no offense was committed under the allegations set forth in the Indictment.

24. That the Court is without jurisdiction for the reason that the defendant was not afforded an opportunity to present any facts or evidence before the Penal Division of the Bureau of Internal Revenue or the Department of Justice prior to the institution of this prosecution as required by the practice and procedure of those departments and was thereby deprived of the equal protection of the law.

25. That the Grand Jury was without jurisdiction to indict the defendant because the defendant was not afforded an opportunity to present any facts or evidence before the Penal Division of the Bureau of Internal Revenue or the Department of Justice prior to the institution of this prosecution as required by the practice and procedure of those departments.

26. That the Grand Jury had insufficient evidence to indict the defendant because it heard no evidence of any hearing afforded this defendant before the Penal Division of the Bureau of Internal Revenue or the Department of Justice prior to the institution of this prosecution.

27. That the Grand Jury was without jurisdiction to indict the defendant for the reason that it had received no authorization or sanction from the Commissioner of Internal Revenue nor any direction from the Attorney General of the United States that the action be commenced, as required by Section 3740 of Title 26 of the United States Code.

28. That the statutes upon which the Indictment is based are unconstitutional because they deny the defendant due process of law and deprive him of rights as guaranteed by the

Fifth Amendment of the Constitution of the United States for the reason that Section 3761 of the Internal Revenue Code authorizes the Commissioner of Internal Revenue and the Attorney General to compromise any civil or criminal case arising under the Internal Revenue laws, and section 3740 of the Internal Revenue Code forbids the commencement of any criminal case arising under the Internal Revenue laws without the approval of the Commissioner of Internal Revenue and the Attorney General.

29. That the statutes upon which the Indictment in this cause is based are unconstitutional for the reason that they deny the defendant due process of law and equal protection of the law and deprive him of rights guaranteed by the Fifth Amendment of the Constitution of the United States, for the reason that Section 3761 of the Internal Revenue Code authorizes the Commissioner of Internal Revenue and the Attorney General to compromise any civil or criminal case arising under the Internal Revenue laws, without fixing any standard for such a compromise; and Section 3740 of the Internal Revenue Code forbids the commencement of any criminal case arising under the Internal Revenue laws without the approval of the Commissioner of Internal Revenue and the Attorney General, and also fails to fix a standard by which the Commissioner and the Attorney General shall determine when to authorize or sanction a criminal proceeding; and for the further reason that said statutes unlawfully delegate to a non-judicial body the power to determine which persons shall be criminally prosecuted and which persons shall not be criminally prosecuted.

69 30. That the Grand Jury in this cause had no competent evidence before it upon which it could base an Indictment.

31. That the evidence upon which this Indictment was obtained was obtained by Government agents under the compulsion of the statute which requires a taxpayer to produce his records for inspection by Government revenue agents and under the compulsion of the decision in *Myres vs. United States*, 8 Cir., 174 F. (2d) 329, which holds that the failure or refusal of a taxpayer to produce his books and records is a circumstance which might be considered in determining the issue of wilfulness in prosecutions under Section 145 of the Internal Revenue Code, and the use of such evidence violates defendant's rights under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

32. That the institution of the Indictment under Cause No. 18189 constitutes an abandonment or an amendment of the allegations set out in the Indictment herein.

33. That the failure to file Internal Revenue Service Form 1099 does not constitute an offense against the laws of the United States because no statute specifically makes such an omission a crime.

34. That the interpretation of Sections 145(a) and 147 of the Internal Revenue Code by the Bureau of Internal Revenue and the Department of Justice, and the subsequent reenactment in the Internal Revenue Code of those sections by the Congress of the United States indicates that the failure to file Internal Revenue Service Form 1099 does not constitute an offense against the laws of the United States.

35. That the Indictment does not charge an offense for the reason that Internal Revenue Service Form 1099 does not constitute a return within the meaning of section 145(a) of the Internal Revenue Code.

36. That the Indictment does not charge an offense for the reason that it does not charge or allege that any tax was due or owing to the United States as a result of the acts alleged to have been committed by this defendant.

M.A. SHENKER

MORRIS A. SHENKER

408 Olive Street

St. Louis Missouri

Attorney for Defendant

Defendant request oral argument, and leave to present evidence in support of this motion.

71 IN UNITED STATES DISTRICT COURT

No. 18189

[Title Omitted]

Defendant's Motion to Dismiss—Filed Jan. 31, 1952

Comes now the defendant in the above-entitled cause and moves that each Count of the Indictment filed herein be dismissed upon the following grounds:

1. That Count One of the Indictment is barred by the Statute of Limitations.

2. That this Court is without jurisdiction over the subject matter alleged in the Indictment and over the person of this defendant.

3. That each Count of the indictment charges the defendant with the commission of the same offense in such manner that the defendant could be convicted 3 times for the same alleged offense under this Indictment.

4. That the silence of the Internal Revenue Agents with respect to the requirement of filing Internal Revenue Service Forms 1099 and 1096 after their examination of a taxpayer's books and records establishes reasonable cause for an alleged failure to file such forms.

5. That the acts alleged to have been committed by the defendant do not constitute an offense against the laws of the United States, for the reason that since 1937, contrary to previous practice, no reference has been made under the regulations on the Income Tax Return known as Form 1040 to the information required on Internal Revenue Service Forms 1099 or 1096, thus indicating that such information is no longer required or requested by the Commissioner of Internal Revenue of the Secretary of the Treasury, and that any requirement previously existing has been abandoned by the Government.

6. That the Indictment is defective for the reason that it is not stated therein that the information allegedly required to be supplied on Internal Revenue Service Form 1096 was or is in the possession, custody or control of this defendant.

7. That the Indictment does not state facts sufficient to constitute an offense against the United States.

8. That the alleged offenses charged in the Indictment are the same offenses with which the defendant is charged in a separate Indictment under Cause No. 18188 pending in this Court, and that if the defendant is prosecuted under each Indictment he could be twice convicted for the same alleged offense.

9. That the Indictment does not state facts sufficient to constitute an offense for the reason that it does not charge all of the essential elements of the particular offense.

10. That the Indictment is defective for the reason that it does not set out or allege that any demand was at any time made of the defendant for the furnishing of the information referred to, as required by Section 147 of the Internal Revenue Code.

11. That the Indictment is defective for the reason that the failure to file on Internal Revenue Service Form 1096 does not constitute an offense under section 145 of the Internal Revenue Code.

12. That for a long period of time the plaintiff has received and accepted without objection the returns filed by this
73 defendant, and has thus by its actions ratified, accepted and consented to the information so furnished by the defendant, and is therefore barred and estopped from the prosecution of the alleged offense.

13. That if the commission of the acts set out in the Indictment constitute an offense against the laws of the United States, yet by reason of the acts, customs, practices and procedure of the Bureau of Internal Revenue and the Department of Justice relative thereto, a taxpayer has as a matter of law reasonable cause to fail to furnish the information allegedly omitted by the defendant.

14. That the plaintiff, in seeking to prosecute this defendant upon the acts alleged in the Indictment, contrary to the practices and procedure of the Bureau of Internal Revenue and the Department of Justice, is acting in a discriminatory fashion and is depriving this defendant of the equal protection of the law and of due process of law, contrary to the provisions of the Constitution of the United States.

15. That the statute upon which the Indictment is based in this cause is so vague, indefinite and uncertain that the application of such statute to the acts alleged to have been committed herein will cause said statute to become an instrument of great hardship and confusion.

16. That the Indictment in this cause is defective for the reason that it was filed without affording to the defendant a hearing before the Internal Revenue Department, contrary to the practices, procedure and regulations of the said Department.

17. That the Indictment in this cause does not state facts with sufficient certainty to advise the defendant of the nature of the charges sought to be proved thereunder, nor to enable him to prepare his defense thereto, nor to plead the judgment of
74 the Court herein in bar of a further prosecution for the same alleged acts.

18. That the acts set forth in the Indictment do not constitute an offense against the laws of the United States for the further reason that the Indictment does not state that the payments allegedly made by the defendant were payments of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, or income.

19. That by reason of the uncertainty and confusion among the general public as to the necessity of filing the returns under Sec-

tion 147 of the Internal Revenue Code, and as well among the officials of the Government charged with the enforcement of the income tax statutes, as illustrated by the lack of prosecution thereon, contrary to the provisions of Sections 3745 and 4047(9) of Title 26 of the United States Code, it is apparent that as a matter of law no offense was committed under the allegations set forth in the Indictment.

20. That the Court is without jurisdiction for the reason that the defendant was not afforded an opportunity to present any facts or evidence before the Penal Division of the Bureau of Internal Revenue or the Department of Justice prior to the institution of this prosecution as required by the practice and procedure of those departments and was thereby deprived of the equal protection of the law.

21. That the Grand Jury was without jurisdiction to indict the defendant because the defendant was not afforded an opportunity to present any facts or evidence before the Penal Division of the Bureau of Internal Revenue or the Department of Justice prior to the institution of this prosecution as required by the practice and procedure of those departments.

75 22. That the Grand Jury had insufficient evidence to indict the defendant because it heard no evidence of any hearing afforded this defendant before the Penal Division of the Bureau of Internal Revenue or the Department of Justice prior to the institution of this prosecution.

23. That the Grand Jury was without jurisdiction to indict the defendant for the reason that it had received no authorization or sanction from the Commissioner of Internal Revenue nor any direction from the Attorney General of the United States that the action be commenced, as required by Section 3740 of Title 26 of the United States Code.

24. That the statutes upon which the Indictment is based are unconstitutional because they deny the defendant due process of law and deprive him of rights as guaranteed by the Fifth Amendment of the Constitution of the United States for the reason that Section 3761 of the Internal Revenue Code authorizes the Commissioner of Internal Revenue and the Attorney General to compromise any civil or criminal case arising under the Internal Revenue laws, and section 3740 of the Internal Revenue Code forbids the commencement of any criminal case arising under the Internal Revenue laws without the approval of the Commissioner of Internal Revenue and the Attorney General.

25. That the statutes upon which the Indictment in this cause is based are unconstitutional for the reason that they deny the defendant due process of law and the equal protection of the law and deprive him of rights guaranteed by the Fifth Amendment of the Constitution of the United States, for the reason that Section 3761 of the Internal Revenue Code authorizes the Commissioner of Internal Revenue and the Attorney General to compromise any civil or criminal case arising under the Internal Revenue laws, without fixing any standard for such a compromise;

and Section 3740 of the Internal Revenue Code forbids the commencement of any criminal case arising under the Internal Revenue laws without the approval of the Commissioner of Internal Revenue and the Attorney General, and also fails to fix a standard by which the Commissioner and the Attorney General shall determine when to authorize or sanction a criminal proceeding; and for the further reason that said statutes unlawfully delegate to a non-judicial body the power to determine which persons shall be criminally prosecuted and which persons shall not be criminally prosecuted.

26. That the Grand Jury in this cause had no competent evidence before it upon which it could base an Indictment.

27. That the evidence upon which this Indictment was obtained was obtained by Government agents under the compulsion of the statute which requires a taxpayer to produce his records for inspection by Government revenue agents and under the compulsion of the decision in *Myres vs. United States*, 8 Cir., 174 F. (2d) 329, which holds that the failure or refusal of a taxpayer to produce his books and records is a circumstance which might be considered in determining the issue of wilfulness in prosecutions under Section 145 of the Internal Revenue Code, and the use of such evidence violates defendant's rights under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

28. That the failure to file Internal Revenue Service Form 1096 does not constitute an offense against the laws of the United States because no statute specifically makes such an omission a crime.

29. That the interpretation of Sections 145(a) and 147 of the Internal Revenue Code by the Bureau of Internal Revenue and the Department of Justice, and the subsequent reenactment in the Internal Revenue Code of those sections by the Congress of the United States indicates that the failure to file Internal Revenue Service Form 1096 does not constitute an offense against the laws of the United States.

30. That the Indictment does not charge an offense for the reason that Internal Revenue Service Form 1096 does not constitute a return within the meaning of section 145(a) of the Internal Revenue Code.

31. That the Indictment does not charge an offense for the reason that it does not charge or allege that any tax was due or owing to the United States as a result of the acts alleged to have been committed by this defendant.

32. That the Indictment is further defective and this Court has no jurisdiction thereof for the reason that the Grand Jury was not given any charge or instructions by the Court relative to matters of law during their investigation.

M. A. SHENKER
Morris A. Shenker
408 Olive Street
St. Louis, Missouri
Attorney for Defendant

Defendant requests oral argument and leave to present evidence in support of this motion.

78 IN UNITED STATES DISTRICT COURT

No. 18,188

[Title Omitted]

**Defendant's Supplemental Motion to Dismiss—Filed Aug.
11, 1952**

The defendant moves the Court to dismiss each Count of the Indictment herein for the following grounds in addition to the grounds set forth in Defendant's Motion to Dismiss:

1. The Grand Jury had no jurisdiction to return an indictment after the expiration of the original term of Court in which they began their hearings in the absence of a statute conferring jurisdiction for the reason that Rule 6(g) of the Federal Rules of Criminal Procedure can neither grant, restrict nor enlarge the jurisdiction of the Grand Jury.

2. That this Court has no jurisdiction over Counts One through Forty-Five of the Indictment for the reason that prior to February 16, 1949, Regulation 111, Section 29.147-1, provided that "returns of information should be filed with the Commissioner of Internal Revenue, Processing Division, 260 E. 161st St., New York 51, New York."

3. The Indictment is predicated on the failure to file United States Treasury Department Form 1099, the doing of which act or acts under compulsion would constitute a violation of the rights guaranteed by the Constitution of the United States that no person shall be compelled to give or furnish testimony which may tend to incriminate him.

MORRIS A. SHENKER
Morris A. Shenker
408 Olive Street
St. Louis, Missouri
Attorney for Defendant

79

IN UNITED STATES DISTRICT COURT

No. 18189

[Title Omitted]

**Defendant's Supplemental Motion to Dismiss—Filed Aug.
11, 1952**

The defendant moves the Court to dismiss each Count of the Indictment herein for the following grounds in addition to the grounds set forth in Defendant's Motion to Dismiss:

1. The Grand Jury had no jurisdiction to return an Indictment after the expiration of the original term of Court in which they began their hearings in the absence of a statute conferring jurisdiction for the reason that Rule 6(g) of the Federal Rules of Criminal Procedure can neither grant, restrict nor enlarge the jurisdiction of the Grand Jury.

2. That this Court has no jurisdiction over Count One of the Indictment for the reason that prior to February 16, 1949, Regulation 111, Section 29.147-1, provided that "returns of information should be filed with the Commissioner of Internal Revenue, Processing Division, 260 E. 161st St., New York 51, New York."

3. The Indictment is predicated on the failure to file United States Treasury Department Form 1096, the doing of which act or acts under compulsion would constitute a violation of the rights guaranteed by the Constitution of the United States that no person shall be compelled to give or furnish testimony which may tend to incriminate him.

M. A. SHENKER
Morris A. Shenker
408 Olive Street
St. Louis, Missouri
Attorney for Defendant

80 IN UNITED STATES DISTRICT COURT

Record Entry Motion to Dismiss in Case No. 18188 Submitted and Sustained, August 11, 1952

On this 11th day of August, 1952, come the parties herein, the defendant in person and by counsel Morris A. Shenker and the United States by F. M. Seltzer and Harry F. Murphy. Defendant files a supplemental Motion to Dismiss and thereafter the Motion to Dismiss is taken up, argued by counsel, submitted to the Court and by the Court sustained. It is by the Court ordered that the defendant be discharged and that his bond be exonerated.

81 IN UNITED STATES DISTRICT COURT

Record Entry Motion to Dismiss in Case No. 18189 Submitted and Sustained as to Count I. Overruled as to Counts 2 and 3; Motion for Bill of Particulars Overruled; Plea Not Guilty Entered, August 11, 1952

On this 11th day of August, 1952, come the parties herein, the defendant in person and by counsel Morris A. Shenker and the United States by F. M. Seltzer and Harry F. Murphy. The defendant files a Supplemental Motion to Dismiss and thereafter the defendant's Motion to Dismiss is taken up, argued by counsel and submitted to the Court. The Court sustains the Motion as to Count I of the Indictment herein and overrules the said Motion as to Counts 2 and 3. Defendant's Motion for Bill of Particulars overruled. Defendant is arraigned and entered a plea of not guilty as to Counts 2 and 3; Trial set for the 17th day of November, 1952.

82 IN UNITED STATES DISTRICT COURT

Criminal No. 18188

[Title Omitted]

Notice of Appeal—Filed Sept. 8, 1952

The United States hereby appeals to the Supreme Court of the United States from the order of the United States District Court for the Western District of Missouri, Western Division, entered August 11, 1952, dismissing the indictment against the defendant, which charge him with violations of Section 145(a) of the Internal Revenue Code, which imposes criminal penalties against anyone who wilfully fails to make a return required by Section 147(a) of the Internal Revenue Code, for use in the computation, assess-

ment and collection imposed by Chapter 1 of the Internal Revenue Code relating to taxes on income of individuals.

ROBERT L. STERN

Robert L. Stern,

Acting Solicitor General.

SEPTEMBER 1952

• Copy of the above mailed to Morris Shenker, 408 Olive, St. Louis, Missouri this 8th day of September, 1952.

A. E. ARNOLD, Clerk

By W. W. CASTER, Deputy Clerk

88

IN UNITED STATES DISTRICT COURT

No. 18188

[Title Omitted]

• **Transcript of the Court's Remarks in Passing Upon Defendant's Motion to Dismiss Before Honorable Richard M. Duncan, District Judge August 11, 1952**

THE COURT:

"With a possible exception of one or two matters ruled on here, the Court has given this matter a great deal of thought. It has been here a long time and I have walked around with this thing on my mind a lot because it presented some unusual questions.

"It arose in a rather unusual manner in its inception. That is none of the Court's business at this time, however, but there are some questions of law that I have constantly had in mind in connection with certain other cases that I have had.

"In the first place, gentlemen, I am going to disagree with both of you rather sharply. I think usually when the Court disagrees sharply with both sides, the Court is likely to be right. So that is going to be the Court's position here.

"As I stated this morning I do not believe that it was the intention of Congress that the failure to report each item required by the statute rates a separate and distinct crime. The statute says that a person paying an amount in excess of \$600 for certain things should be reported on or by the 15th of February of each year. I think that it was the intention of the statute that a return should be made containing that information. I think that Form 1096 is the form that is anticipated required by the statute and that the information which has been described here as being required in Form 1099 as a part of 1096. I don't

think they are separate and distinct. I think that it is one. I think that 1096 is the one that the law requires and that the information contained in 1099 must be made a part of 1096. I think if that information is not contained in 1093, that the person who is required to file the form might be indicted for making a false return and not for a separate and distinct offense. Now those are two things.

"I think that the failure to file each item, that is as in this case it is alleged—or whether it is alleged or not, it is common knowledge—that it is the charge that the money paid here went to persons who had won in games of chance and there were a great many of them, and it is the Court's thought that each one of those does not constitute a separate offense, but that all of them should have been included in Form 1096. If they were not, then after the form was filed, it would have been an offense for making a false return and then, pursuing that just a bit further, the government has the authority under the statute to resort, may we say, to the Rules of Discovery, to get that information, to come into a court of equity and require that it be done, but I will get into that a bit later.

"For that reason, I think as I stated this morning, I was thoroughly convinced that the first indictment, 18,188, would as to all counts except one for each year, have to be dismissed.

"In view of what has transpired here, I must go further and hold that the indictment itself must be dismissed because, in the opinion of the Court, it is not a violation of the law to fail to file under Form 1099, but it is a violation to fail to file 1096.

"So it will be the ruling of the Court that the *Motion to Dismiss as to 18,188 will be sustained.*"

90 "We next come to 18,189. Now, gentlemen, I may be wrong. I am often wrong. The Court of Appeals has repeatedly said so, but I am still trying.

"The question of venue under our modern practice and theory of government is becoming a most serious one and I think all who think economically as well as legally in this complicated age must realize that we are living in a new and complicated age.

"The income tax laws are probably among the most complicated that are upon the statute books. You will pardon any personal reference. It is not anything new, but I either had the privilege or the misfortune, whichever it may have been, to have served for eight years on the Ways and Means Committee in the Congress and on the subcommittee writing tax bills, and the head of the drafting service I think probably knew more federal law and federal statutes than any other man in the United States. I remember one day after spending days and days with all the experts from the Treasury Department and the Internal Revenue Depart-

ment and our own staff, the Joint Committee worked out some theory that should go into the law. It came back in language which none of us could understand. We asked him about it and he smiled one of his rare smiles and said, 'Well, you know we live in the most complicated government in the world and when you try to put within 150 or 200 pages all of the conditions necessary to the collection of taxes in this country, you are going to have to use some complicated language or you won't collect the taxes. The fellows on the outside are working harder to keep from paying them, not criminally, but just protecting themselves, than they are on the inside trying to collect them.' And that was not a reflection on anybody. Of course, it is necessary to make rules and regulations.

"Following that statement through, if you didn't confer upon the Internal Revenue Department and the Treasury Department the rule making authority to make rules and regulations with respect to the collection of taxes, that tax bill would have to have probably 1000 pages instead of 150 or 200. So naturally, authority has been conferred to make reasonable rules and regulations within the four corners of the law itself, and when they go beyond that, then they are not reasonable rules and regulations, and I think the Court has a perfect right to disregard them. It would be illegal if they were not within the four corners of the law itself, and I am not saying that the ones here are not. I think they are.

"But the question of venue comes again not only in the collection of revenue, but in the enforcement of many other of our modern laws to meet modern conditions. They have set up zones, districts, within which the law is to be administered. My own personal view, as a lawyer and as a judge, that the venue laws ought not to be changed as a result of those rules and regulations. I don't think it is right legally. I disagree with my judicial brethren who are my superiors in these matters. I do not think it is right that a man from St. Louis should be brought to Kansas City to answer to the law. I do not think a man from Kansas City should be required to go to New York to defend against some violation of the law. I think it ought to be prosecuted in the place where he lives as it is in almost every other instance.

91 There are a few others where the violation has occurred in two or three different states, or it is a continuing one, such as the violation of the Postal Regulations, and some other matters, but we are getting to that sort of thing. We are bringing our citizens sometimes to some places hundreds of miles away, and under this law you would bring them for thousands of miles to Kansas City to prosecute them. I do not think it is right. I do not think it ought to be the law, but I do think that the courts have held that

it is the law and I think I am bound by it. But I think when the department through their regulations have said that it must be filed in a certain place, I do not think that sometime, a few years later, you can come in and say, 'We didn't mean that; we think it should be filed some place else.'

"Gentlemen, your regulations provided that the returns for 1947 and 1948 should be filed in New York City. You say you have moved the Processing Division out here. That is true and the Government says here that when they processed them then they sent them back to the Collection District.

"This Court is only bound by the law as it is written. This Court must take judicial notice of the rules and regulations of the Bureau of Internal Revenue, and every other bureau, when they are published in the Federal Register, and when that has been done, then that is the law and is binding upon every citizen of the United States. It is binding upon the Court and it is not binding until that is done. Actual notice is not sufficient.

"So I do not think that you have any right to say that a man who under the law was required to file his return in New York on February 15, 1948, can in 1951 be indicted for failure to make that same return in Kansas City. I just don't believe, gentlemen, that that is the law, that you can shift your ~~verbe~~ by any will or whim or caprice, and I don't mean that disrespectfully of anyone. I don't believe you can do that and that is going to be the ruling of this Court and the Motion to Dismiss will be sustained as to that count, Count I, because in the opinion of the Court it was required to be filed in New York, and the order did not become a law until after the filing time had expired requiring it to be filed in Kansas City, although the processing district was here and had been here for quite some time.

"Now we get around to the other two counts. I cannot agree with Mr. Schenker that this is strictly a civil proceeding. I think the statute required that the form be filed. The purpose of it is obvious and always has been that we have, of course, a great many citizens who may not be in such economic condition as to require the filing of a return under normal conditions. It is difficult to check up on them. Therefore, this statute was passed but those who are paying money to other persons should report it so that the government may know who is receiving income. Of course, we realize that in certain cases it may be a little bit of a hardship, but it is nevertheless the law. I can think of many, many instances where it might be disastrous, both to the recipient and to the payer of the money, to have to account for it, but, nevertheless, it is the law and the government has a right to have that information, and if they are going to require that sort of thing, then they should do whatever is necessary to do about it. I think the statute

92 does require a return and I think there is a criminal penalty for failure to comply with it, failure to make a return, and I think a 'return' means any return that is required by the statute, a declaration or whatever it is, and that failure to do so would subject the violator to the penalty.

"With that in mind, the *Motion to Dismiss will be overruled as to Counts II and III.*

"What comes next, gentlemen? Has there been a plea in this case?

"MR. SCHENKER: I was just wondering if the defendant had been arraigned.

"THE COURT: I don't think he has.

"MR. SCHENKER: I don't think so.

"THE COURT: We had better have the arraignment. I think there has been no plea in either this case or the other case.

"MR. SCHENKER: I am sure there wasn't any in the other one.

"THE COURT: I don't think there has been any in this case. I think you were here.

"MR. SCHENKER: That is right.

"THE COURT: And got leave to file these motions and they have been going along here for a long period of time, through the fault of no one.

"MR. SCHENKER: That is correct.

(Whereupon, discussion was had off the record.)

"THE COURT: If your client will come forward.

"MR. SELTZER: Could the record show that the Government excepts to the ruling?

"THE COURT: All exceptions are saved.

(Whereupon, discussion was had off the record.)

"THE COURT: What is the plea of the defendant?

"MR. SCHENKER: Not guilty, if the Court please.

"THE COURT: A plea of not guilty.

"Now, gentlemen, about a trial. You have some motions to make more definite and certain and I think, gentlemen, that the indictment complies with the law. We realize that under the New Rules of Criminal Procedure it does not require very much to make an indictment good. There may be some information that you are entitled to and, if the Court can simply express his
93 opinion about it I think the government is not required to give up its evidence as such, but such books and records and certain things that were taken from the defendant, certainly you have a right to them and to see them, and there may be some other things.

"MR. SCHENKER: I might say this in order to be perfectly fair with the Court, that our Motion for Discovery and Inspection was premature excepting I wanted to get all our motions in because

in order to really come within the terms of U. S. versus Bauman, we should strictly also have filed a subpoena duces tecum but we could not have done so without knowing what they would file.

"THE COURT: I think that you probably have as much information and know whatever they know about it, and if they have taken any books and records away from your client, you are certainly entitled to them.

"MR. SCHENKER: I don't believe that condition exists.

"THE COURT: Whatever they have done in the preparation, I think you are not entitled to see. I am rather liberal in my views about these matters and yet I do not think the defendant is entitled to search the soul and conscience of his opposition too deeply.

"Now, what about a trial of it, gentlemen?

"MR. SCHENKER: Before that question may I call to the Court's attention—I believe you indicated I was thinking in terms of a bill of particulars.

"THE COURT: If there is a Motion to Dismiss the indictment that I haven't passed on, it will be done.

"MR. SCHENKER: It was passed on. The only thing I was thinking about a bill of particulars is that there are certain matters which we can raise if the government were to file a bill of particulars which appears to me would undoubtedly go a long way towards expediting the question of a trial. I indicated to the Court before that when the criminal information was filed the government alleged that these payments were gains as a result of gambling activities substantially and I believe they also indicated something on the question of a demand. Well, the question of a demand is not pertinent now in view of the Court's ruling, but the question as to the source or the reason for those payments, and so forth, that is pertinent and material. For instance, it would certainly give the position of the government whether it is their contention that payments made as a result of gambling ventures were covered by 147. It would also give this question and have the government state whether it is a net proposition over the end of the year, the gains and losses with the final result or whether it is simply regardless of the losses by the person that made the wager.

"THE COURT: I can give you my thought about it very quickly. Would you say the demand is out of the situation so far as the defendant in this case is concerned? And may I assume

94 for the purpose of this discussion—it is not on the record—I assume that all these transactions were based upon gambling.

"MR. SCHENKER: That is a proper assumption.

"THE COURT: So I may assume that. The Court never likes to assume anything that may get anyone in trouble.

"MR. SELTZER: Payments were made in connection with gambling transactions.

"THE COURT: Now, I thought, gentlemen, that any sum paid to any individual as a result of a wager would under the statute have to be returned. Now, whether that is a gain or a loss, certainly it is a gain to the—shall we say the defendant in this case? If I take myself as an example, if I bet \$1000.00 and as a result of that I get \$600.00 back, not the \$1000.00, but \$600.00 in addition.

"MR. SELTZER: That is right, \$1600.00.

"THE COURT: \$1600.00 back. Then that \$1600.00 is reported, must be reported so far as the other individual is concerned. It may be a gain or maybe it isn't. He has to account for that, but any amount he pays in excess of the amount that was deposited with him for the purpose of making a wager would have to be returned. That would be my legal conception.

"MR. SCHENKER: That would be correct; your conception would be correct regardless of the fact that perhaps the transaction involved one day where there was a payment of say \$600.00 and the next day that same \$600.00 came back.

"THE COURT: That is right.

"MR. SCHENKER: That would still be the Court's opinion.

"THE COURT: That is my opinion whenever he pays him \$600.00 on a gambling obligation, the amount of \$600.00.

"MR. SELTZER: More than \$600.00 in the year.

"THE COURT: He has to account for it if he pays him more than \$600.00, and, of course, he wouldn't pay him \$600.00 in addition to the amount of the wager; if it would appear in evidence I came in here and bet \$1000.00 and I got a check back for \$1000.00. That was simply the amount that I wagered and for some reason I didn't win anything, but if I win more than \$600.00, then it has to be reported.

"MR. SELTZER: Even though you lost the same amount of money to the same man the next day.

"THE COURT: That is right. In other words, if he has paid him that amount of money, that is a matter of adjusting. That is the very purpose of this thing. This statute was to keep track of it, and I can see how it is pretty tough on a business of this kind.

95 "MR. SCHENKER: I don't want to belabor the situation but it would be most interesting if the government would attempt to enforce that law on dice games that a man pay or wager his money some forty times within a period of ten or fifteen minutes, and it would be most interesting to attempt to enforce it.

"THE COURT: It is like a transaction that multiplies itself so often. I have sat around the counsel table many, many days dis-

cussing with some of the folks who had a little more advanced ideas about imposing a tax on gambling, and after days of discussion, nobody has ever come up with any substantial or sound plan for taxing gambling so you get the money out of it that I have ever seen or heard of, except at the race track where it is out in the open. I think that is the law, gentlemen. That is the intention of the statute and that would be the ruling of the Court if I were to charge the jury. I would say to them that that was my opinion of the law, that any amount of \$600.00 and up would have to be reported. Whether he lost it, the next day would be of no concern, he would have to account for that. That is, the individual to whom it is paid and not the one who is required to make the return.

"That is my thought and that will be my thought unless there is something to the contrary, because I don't know of any law—

"MR. SCHENKER: We haven't been able to find any.

"THE COURT: We are kind of pioneering this thing.

"MR. SCHENKER: We haven't been able to find any and I was just wondering whether we should not have attacked this law because it is just incapable of being enforced as to all things.

"THE COURT: I think there are a number of things like that, but it is not for this Court to say. We have had some others in the past that were unenforceable but they were on the books and they had to be looked after. I am not critical of the law. We are just making a practical situation. I think it is a perfectly good law and one that has resulted in the government's ability to collect taxes where they otherwise might not have obtained them.

"So that brings us back to where we are going and you may not be back here again for sometime. If we can agree on some time to set the case or if in the meantime we have to pass upon some formal matters, we can do that.

"MR. SCHENKER: Very well.

"THE COURT: But there is not very much here that I see where a bill of particulars will aid you.

"MR. SCHENKER: Frankly, that practically answered the point. While I am objecting and saving exceptions, it does enlighten me on the matter that I wanted to get at, and I am very appreciative to the Court for that.

"THE COURT: If I should change my mind about the situation, I think I should advise counsel on both sides.

96 "MR. SCHENKER: Those are the things that I wanted to raise and there was no way I could raise them as the indictment stood.

"THE COURT: All right.

(Whereupon, discussion was had off the record, at the conclusion of which the Court announced that said case would be set for
November 17, 1959.)

"THE COURT: Let the record show that the bill of particulars is overruled. That does not mean, gentlemen, that if some matter should develop in the meantime I am going to preclude you from filing another motion.

"MR. MURPHY: That still leaves the motion for discovery but I believe Mr. Schenker said that might be premature.

"MR. SCHENKER: I was going to make this suggestion, as to the motion for discovery, if the Court did not rule on it or would just pass it.

"THE COURT: I am willing to pass it now because if when you get into the preparation of it there is anything that you gentlemen cannot agree on, either that the government has and that you want, you can refer it to the Court and the Court can pass on it. I think that is the better way to handle it.

"MR. SELTZER: So there would not be any further argument on it?

"MR. SCHENKER: No.

"THE COURT: You gentlemen are not going to have any difficulties.

"MR. SCHENKER: I am perfectly willing to admit that my motion is premature at this time, my Motion for Discovery.

"THE COURT: Let the Motion for Discovery and Inspection remain on the docket, just make no order about it. Just leave it undisposed of by failure to mention it.

"Gentlemen, I want to congratulate both of you on the thoroughness with which you have briefed this matter and gone into a difficult situation. It is a new situation, as I see it.

"MR. SCHENKER: Thank you very much.

"THE COURT: You have both done a splendid job and represented your clients with fidelity.

"MR. SCHENKER: Thank you, your Honor.

"MR. SELTZER: Thank you, sir."

97 **Service of Appeal Papers (Omitted in Printing)**
 Service of Appeal Papers

(Omitted in Printing)

98 **Designation of Contents of Record on Appeal**
 (Omitted in Printing)

98A

IN UNITED STATES DISTRICT COURT

Criminal No. 18188

[Title Omitted]

[File Endorsement Omitted]

Notice of Appeal—Filed Sept. 8, 1952

The United States hereby appeals to the Supreme Court of the United States from the order of the United States District Court for the Western District of Missouri, Western Division, entered August 11, 1952, dismissing the indictment against the defendant, which charge him with violations of Section 145(a) of the Internal Revenue Code, which imposes criminal penalties against anyone who wilfully fails to make a return required by Section 147(a) of the Internal Revenue Code, for use in the computation, assessment and collection imposed by Chapter 1 of the Internal Revenue Code relating to taxes on income of individuals.

ROBERT L. STERN

Robert L. Stern,

Acting Solicitor General.

SEPTEMBER 1952

Copy of the above mailed to Morris Shenker, 408 Olive, St. Louis, Missouri this 8th day of September, 1952.

A. L. ARNOLD,

Clerk

By W. W. CASTER,

Deputy Clerk

98B

IN UNITED STATES DISTRICT COURT

No. 18188

[Title Omitted]

Docket Entries

Dec. 14 1951—Indictment filed.

17

—Order for Warrant of Arrest, fixing appearance bond at \$2500.00 to be taken by the nearest United States Commissioner filed. Warrant of Arrest issued & Mailed to the U.S. Marshal at St. Louis, Mo.

20

—The defendant appears in open court by counsel, defendant not present in person. The defendant

is allowed until Feb. 1, 1952 within which to file pleadings to the indictment.

- 21 " — Warrant of arrest bearing the U.S. Marshal's return of arrest—The Marshall for the E. Dist. of Mo. filed. Appearance bond filed.
- Jan. 30 1952 — By order in open court, the United States is granted 30 days after the filing of defendant's pleadings in which to file a reply brief thereto.
- Jan. 31 " — Defendant's motion to dismiss; Motion for discovery & inspection, and motion for a bill of particulars, filed in open court, without suggestions. Counsel for deft. advises the Court that suggestions will be mailed in.
- Feb. 29 " — Order, extending time 30 days in which plaintiff may file suggestions in opposition to defendant's various motions, filed. (Attested copies of the order delivered to Mr. Selzer, counsel for plf.)
- Mar. 26 " — Order giving plaintiff an additional 30 days in which to file suggestions in opposition to defendant's motions to dismiss, for discovery, and for bill of particulars, filed. (Copies delivered to counsel for plf. to be served on counsel for Deft.)
- Apr. 28 " — Order giving plaintiff and additional 30 days in which to file suggestions in opposition to defendant's motions to dismiss, for discovery and inspection, and for bill of particulars, filed, and attested copies supplied counsel for the defendant.
- May 26 " — Order giving plaintiff an additional 30 days to file suggestions in opposition to defendant's various motions filed. (Deft counsel supplied)
- June 24 " — Order, extending time an additional 10 days in which plaintiff may file suggestions in opposition to defendant's motions to dismiss, for discovery and inspection, and for bill of particulars filed. (Copies to Mr. Selzer)
- July 7 " — Government suggestions and supporting authorities in opposition to defendant's motion to dismiss, For discovery & Inspection, and for Bill of Particulars, filed. (Taken to Judge Duncan)
- 98C Aug. 11 1952 — The parties appear, defendant in person & with counsel. A Supplemental Motion to Dismiss is filed by the defendant. Motion to dismiss is argued, submitted to the Court and by the Court sustained. Defendant is discharged & bond exonerated.

- Sept. 8 " —Notice of Appeal, and Statement of Jurisdiction filed by the U.S. Atty. (Duplicate mailed to counsel for deft.).
- Sept. 11 " —Statement of Jurisdiction, bearing acknowledgment of receipt of copy thereof by counsel for the defendant, filed.
- Sept. 16 " —Designation of Contents of Record on Appeal filed.
- Sept. 23 " —Statement of Defendant in Opposition to appellant's Statement of Jurisdiction filed.
- Sept. 23 " —Counter Designation of contents of Record on Appeal filed by the defendant.
- 98D [Clerk's Certificate to foregoing paper omitted in printing.]

Counter Designation of Contents of Record on Appeal

- 99 [Omitted in Printing.]
- 100 [Clerk's Certificate to foregoing transcript omitted in printing.]

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

[Title Omitted]

[File Endorsement Omitted]

Statement of Points to be Relied Upon and Designation of Record—Filed December 23, 1952

Pursuant to Rule 13, paragraph 9, of this Court, appellant states that it intends to rely upon the following points:

1. The District Court erred in dismissing in its entirety indictment No. 18,188, containing counts 1 to 101, inclusive.
2. The District Court erred in holding that failure to file Treasury information returns Forms 1099, as required by Section 147 (a), Internal Revenue Code (26 U.S.C., 1946 ed., Sec. 147), did not constitute a separate offense under Section 145(a), Internal Revenue Code (26 U.S.C., 1946 ed., Sec. 145), as to each separate failure to file each Form 1099.

3. The District Court erred in holding that a maximum of one offense a year could be charged, under Section 145(a), Internal Revenue Code (26 U.S.C., 1946 ed., Sec. 145), for failure to file either Treasury information returns Forms 1096 or 1099, regardless of the number of Forms 1099 required to be filed together with Treasury information returns Forms 1096 for each year.

4. The District Court erred in holding that Treasury Forms 1099 were not separate and distinct but were merely attachments to or component parts of Treasury information returns Forms 1096.

102 5. The District Court erred in holding that Section 147 (a), Internal Revenue Code (26 U.S.C., 1946 ed., Sec. 147), and Treasury Regulations 111, Section 29.147-1, required only the filing of Treasury information returns Forms 1096 and did not require the filing of Forms 1099.

Appellant deems the entire record, as filed in the above-entitled case, necessary for consideration of the points relied on.

WALTER J. CUMMINGS, JR.,
Solicitor General.

December 20, 1952

• • • • •

104 SUPREME COURT OF THE UNITED STATES

[Title Omitted]

Order Postponing Jurisdiction—Filed December 15, 1952

The statement of jurisdiction in this case having been submitted and considered by the Court, further consideration of the question of the jurisdiction of this Court in this case is postponed to the hearing of the case on the merits.

December 15, 1952.